

APPEAL NO. 030657  
FILED MAY 2, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on February 13, 2003. The hearing officer resolved the disputed issues by deciding that the date of injury pursuant to Section 408.007, the date the employee knew or should have known the disease may be related to the employment, is on or about \_\_\_\_\_; that the respondent (claimant) sustained a compensable repetitive trauma injury; that the appellant (carrier) is not relieved from liability under Section 409.002 because of the claimant's failure to timely notify her employer pursuant to Section 409.001; and that the carrier is not relieved from liability under Section 409.004 because of the claimant's failure to timely file a claim for compensation with the Texas Workers' Compensation Commission (Commission) within one year of the injury as required by Section 409.003. The carrier appealed the hearing officer's determinations on sufficiency of evidence grounds. The appeal file does not contain a response from the claimant.

DECISION

Affirmed.

The hearing officer did not err in her determinations on the issues of occupational disease injury, date of injury, timely notice of injury, and timely filing of the claim with the Commission. Section 401.011(34) provides that an occupational disease includes a repetitive trauma injury, which is defined in Section 401.011(36). Section 408.007 provides that the date of injury for an occupational disease is the date on which the employee knew or should have known that the disease may be related to the employment. Section 409.001(a) provides that, if the injury is an occupational disease, an employee or a person acting on the employee's behalf shall notify the employer of the employee of an injury not later than the 30th day after the date on which the employee knew or should have known that the injury may be related to the employment. Section 409.003 requires that a claimant file a claim for compensation with the Commission not later than one year after the date of injury. Conflicting evidence was presented on the issues of occupational disease injury, date of injury, timely notice to the employer, and timely filing of the claim. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established from the evidence presented. We conclude that the hearing officer's determinations on the issues of occupational disease injury, date of injury, timely notice to the employer, and timely filing of the claim are supported by sufficient evidence and are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W. 2d 175 (Tex. 1986).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**ROBERT PARNELL  
8144 WALNUT HILL LANE, SUITE 1600  
DALLAS, TEXAS 75231-4813.**

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Gary L. Kilgore  
Appeals Judge

CONCUR:

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Thomas A. Knapp  
Appeals Judge

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Michael B. McShane  
Appeals Panel  
Manager/Judge